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OAKLAND

CITY OF OAKLAND 2017 NOV 21 PM 5:14

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: William Gilchrist
Director, PBD

SUBJECT: Impact Fees Annual Report

DATE: November 9, 2017

City Administrator Approval

Date:

11/21/17

RECOMMENDATION

Staff Recommends That The City Council Receive This Annual Report On The Affordable Housing, Transportation, Capital Improvements, and Jobs/Housing Impact Fees.

EXECUTIVE SUMMARY

Oakland is facing a housing affordability crisis and is confronted with inadequate infrastructure. Multiple City policies and initiatives, such as the General Plan, Housing Equity Roadmap, and the Mayor's Housing Cabinet "Oakland At Home" report called for adopting development impact fees so that new development in the city pays its fair share towards funding affordable housing, transportation improvements, and capital facilities.

On May 3, 2016, the City Council adopted the Affordable Housing Impact Fees, Oakland Municipal Code (OMC) Chapter 15.72 (Ordinance No. 13365 C.M.S.), and the Transportation and Capital Improvements Impact Fees, OMC Chapter 15.74 (Ordinance No. 13366 C.M.S.). These Impact Fees went into effect for development projects submitting a building permit application on or after September 1, 2016. Previously, on July 30, 2002, the City Council adopted the Jobs/Housing Impact Fee, OMC Chapter 15.68 (Ordinance No. 12442 C.M.S.) and these Impact Fees went into effect for development projects submitting a building permit on or after July 1, 2005.

This is the annual report for the fiscal year (FY) of July 1, 2016 to June 30, 2017 of the Affordable Housing, Transportation, and Capital Improvements Impact Fees as well as the previously adopted Jobs/Housing Impact Fee, OMC Chapter 15.68 (Ordinance No. 12442 C.M.S.), as required per the Mitigation Fee Act, California Government Code Section 66000.

As expected, the first fiscal year amounts of Impact Fees collected/paid are low for a number of reasons including, but not limited to:

1. The Impact Fee program is designed for revenues generated over time to mitigate impacts from new development and not meant to cover existing shortfalls.
2. The Impact Fees did not start at the beginning of the fiscal year of 2016, therefore the first year revenues did not include a full fiscal year.
3. A number of projects had vested rights or development agreements and were not subject to Impact Fees.

Item: _____
CED Committee
December 5, 2017

4. Impact Fees are not paid in full when a building permit is applied for. Instead, they are paid later in the building permit process as follows:
 - a. At building permit issuance, 100% of Transportation and Capital Improvements Impact Fees, 50% of Affordable Housing Impact Fees, and 25% of Jobs/Housing Impact Fees are paid. Building permit issuance may occur up to one year after a building permit application. Therefore, a large portion of these fees are not included in the first fiscal year.
 - b. At project completion, the remaining 50% of Affordable Housing Impact Fees and 50% of Jobs/Housing Impact Fees are paid, which for larger projects typically occurs 1 to 3 years after the building permit issuance (and 2 to 4 years after the building permit application). These Impact Fees likely will not be paid until the second, third, or fourth fiscal year.
 - c. For Jobs/Housing Impact Fees, the remaining 25% of the Impact Fees are paid at 18 months after project completion.
5. The Impact Fees were phased in to give time for developers to incorporate the cost of the Impact Fees into their projects as well as to incentivize development projects to build now so the housing built can contribute to the immediate need for housing. Phasing in new fees was also consistent with continued real growth of rents and improved feasibility of housing development.

During the fiscal year of July 1, 2016 to June 30, 2017 all the Impact Fees, except for the Jobs/Housing Impact Fees, were not in effect until September 1, 2016. The following are the amounts of Impact Fees that were assessed on building permit applications as well as the amount that was paid and due during the first fiscal year:

1. Affordable Housing Impact Fees: \$7,685,618 assessed and \$477,824 paid so far.
2. Jobs/Housing Impact Fee: \$3,303,134 assessed and \$303,360 paid so far.
3. Transportation Impact Fees: \$1,901,523 assessed and \$483,269 paid so far.
4. Capital Improvements Impact Fees: \$1,331,128 assessed and \$141,547 paid so far.

Both the Affordable Housing Impact Fees and the Jobs/Housing Impact Fee go into the Affordable Housing Trust Fund, for a total assessed amount of \$10,988,752 and paid amount of \$781,184. Other sources of revenue for the Affordable Housing Trust Fund include the Redevelopment dissolution funds (aka "boomerang funds"), and fines and penalties under the Foreclosed and Defaulted Residential Property Registration Program.

BACKGROUND / LEGISLATIVE HISTORY

Summary of the Affordable Housing, Transportation, and Capital Improvements Impact Fees

On May 3, 2016, the City Council adopted the Affordable Housing Impact Fees, Oakland Municipal Code (OMC) Chapter 15.72 (Ordinance No. 13365 C.M.S.), and the Transportation and Capital Improvements Impact Fees, OMC Chapter 15.74 (Ordinance No. 13366 C.M.S.). These Impact Fees went into effect for development projects submitting a building permit application on or after September 1, 2016.

These Impact Fees were adopted in part because Oakland continues to face a housing affordability crisis and is confronted with inadequate infrastructure. As Oakland experiences economic growth, it is important that the City plan for and provide funds for affordable housing, transportation improvements, and capital facilities to meet the current and evolving needs of residents. Multiple City policies and initiatives, such as the General Plan, Housing Equity Roadmap, and the Mayor's Housing Cabinet "Oakland At Home" report called for adopting development impact fees so that new development in the city pays its fair share towards funding affordable housing, transportation improvements, and capital facilities. While impact fees alone will not solve Oakland's pressing affordable housing and infrastructure improvement needs, they are an important step towards addressing these problems.

Development Projects Subject to Impact Fees and Exemptions

Development Projects that are Subject to Impact Fees:

1. Affordable Housing Impact Fees
 - New housing units (including live/work and work/live units)
2. Transportation and Capital Improvements Impact Fees
 - New housing units (including live/work and work/live units)
 - New nonresidential projects
 - Nonresidential projects with additional floor area
 - Nonresidential projects with a "Change and Intensification of Use"

The following projects are exempt from the impact fees:

1. Secondary units.
2. Affordable housing projects (exempt from the Affordable Housing Impact Fee and the Capital Improvements Impact Fee, but subject to the Transportation Impact Fee).
3. Nonresidential projects converting less than 5,000 square feet of floor area to another use.
4. Nonresidential projects involving less than 5,000 square feet of building floor area occupied by institutional uses.

Impact Fee Zones for Residential Development Projects

Three (3) different impact fee zones for residential projects correspond to three (3) geographic zones of the city that have different market characteristics (i.e., support different prices and rents) and different levels of economic feasibility, and thus different abilities to pay impact fees. A general description of the zones is listed below (see **Attachment A** for a map of the Impact Fee Zones).

1. Impact Fee Zone 1 (Downtown, the east side of Lake Merritt, much of North Oakland, and the Hills above I-580).
2. Impact Fee Zone 2 (West Oakland, a small part of North Oakland, the area east of Lake Merritt to 23rd Avenue).
3. Impact Fee Zone 3 (areas east of 23rd Avenue and below I-580).

Payment of Impact Fees

The impact fees are paid during the building permit process:

1. All Transportation and Capital Improvements Impact Fees are due prior to the issuance of a building permit.
2. The Affordable Housing Impact Fee is due in two installments:
 - The first installment of 50% of the Impact Fee is due prior to the issuance of a building permit; and
 - The second installment for the remaining 50% is due prior to the issuance of a temporary or permanent certificate of occupancy, whichever comes first.

Allowing for impact fee payment in a phased approach benefits economic feasibility by reducing the carrying cost time frame.

Impact Fee Amount and Phasing

The amount charged for the Impact Fees was intended to balance the need to generate more affordable housing, while not impeding construction of new housing for all income levels. The generation of additional housing units addresses the scarcity of available units in the current market, scarcity which ultimately contributes to displacement.

The implementation of impact fees was intended to “follow” the market, phasing in new fees consistent with continued real growth of rents and improved feasibility of housing development. By doing so, it intended to encourage near-term development that provides successes on the ground for lenders and investors, and increases the ability to absorb higher fees in the future.

The Transportation Impact Fee sufficiently covers the California Environmental Quality Act (CEQA) transportation cumulative impact mitigations that are within the Environmental Impact Reports for all the Specific Plans, Redevelopment Plans, General Plan, and other major projects. Therefore, paying the impact fee satisfies a development’s obligation to contribute its fair share towards mitigating the cumulative impact without having to fully fund the mitigation project.

For nonresidential projects, the City adopted a Jobs/Housing Impact Fee that went into effect on July 1, 2005 on office and warehouse activities to provide funding for affordable housing. Therefore, the new Impact Fees for nonresidential projects were adopted for capital improvements and transportation only, not for affordable housing. For all the nonresidential uses the Transportation Impact Fees include the minimum amount to cover CEQA transportation cumulative impact mitigations starting in 2016 so developers can pay their fair share of required transportation improvements. For Capital Improvements, the fees vary by land use depending on the economic feasibility for that land use at the time the Impact Fees were adopted, economic development considerations, and the phasing in of higher fees was based on development becoming more feasible over time.

The fees for the Affordable Housing, Transportation, and Capital Improvements Impact Fees started in September 1, 2016 (see *Tables 1 – 3a* below for Impact Fee amounts). The Impact Fees are phased in and increased on July 1, 2017; will increase again on July 1, 2018; and then for residential projects stay the same through June 30, 2020 and then will increase with inflation starting on July 1, 2021 and each July 1st of each year after. For nonresidential projects the

Impact Fees will continue to increase on July 1, 2019, July 1, 2020, and then will increase with inflation on July 1st of each year after.

Affordable Housing Impact Fees

Table 1: Affordable Housing Impact Fees - Residential

Affordable Housing Impact Fees - Residential (Fee Per Housing Unit) The Date is Based on When the Applicant Applies for Building Permit						
Housing Use Type	Zone	9/1/16 – 6/30/17 First Fiscal Year	7/1/17 – 6/30/18	7/1/18 – 6/30/19)	7/1/19 – 6/30/20	7/1/20 – 6/30/21
Multi-family	Zone 1	\$5,500	\$11,500	\$22,000	\$22,000	\$22,000
	Zone 2	\$4,550	\$9,250	\$17,750	\$17,750	\$17,750
	Zone 3	\$0	\$0	\$3,000	\$6,000	\$12,000
Townhome	Zone 1	\$6,500	\$12,000	\$20,000	\$20,000	\$20,000
	Zone 2	\$2,600	\$7,200	\$14,250	\$14,250	\$14,250
	Zone 3	\$0	\$0	\$1,000	\$4,000	\$8,000
Single-family	Zone 1	\$6,000	\$12,500	\$23,000	\$23,000	\$23,000
	Zone 2	\$3,750	\$9,000	\$16,500	\$16,500	\$16,500
	Zone 3	\$0	\$0	\$1,000	\$4,000	\$8,000

Capital Improvement Impact Fees

Table 2: Capital Improvements Impact Fees - Residential

Capital Improvement Impact Fees - Residential (Fee Per Housing Unit) The Date is Based on When the Applicant Applies for Building Permit						
Housing Use Type	Zone	9/1/16 – 6/30/17 First Fiscal Year	7/1/17 – 6/30/18	7/1/18 – 6/30/19)	7/1/19 – 6/30/20	7/1/20 – 6/30/21
Multi-family	Zone 1	\$750	\$750	\$1,250	\$1,250	\$1,250
	Zone 2	\$250	\$500	\$750	\$750	\$750
	Zone 3	\$0	\$0	\$0	\$0	\$250
Townhome	Zone 1	\$1,000	\$1,000	\$3,000	\$3,000	\$3,000
	Zone 2	\$2,600	\$7,200	\$14,250	\$14,250	\$14,250
	Zone 3	\$0	\$0	\$1,000	\$1,000	\$1,000
Single-family	Zone 1	\$1,500	\$2,000	\$4,000	\$4,000	\$4,000
	Zone 2	\$3,750	\$9,000	\$16,500	\$16,500	\$16,500
	Zone 3	\$0	\$0	\$1,000	\$1,000	\$1,000

Table 2a: Capital Improvements Impact Fees - Nonresidential

Capital Improvements Impact Fees - Nonresidential (Fee Per Square Foot) The Date is Based on When the Applicant Applies for Building Permit					
Nonresidential Use Type	9/1/16 – 6/30/17 First Fiscal Year	7/1/17 – 6/30/18	7/1/18 – 6/30/19	7/1/19 – 6/30/20	7/1/20 – 6/30/21
Office*	\$0.00	\$0.00	\$1.00	\$1.00	\$2.00
Retail, Freestanding	\$0.00	\$0.15	\$0.25	\$0.25	\$0.50
Retail, Ground Floor	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Industrial	\$0.40	\$0.40	\$0.75	\$0.75	\$1.00
Warehouse*	\$0.65	\$0.90	\$1.00	\$1.00	\$1.00
Hotel/Motel	\$0.10	\$0.20	\$0.35	\$0.35	\$0.60
Institutional	\$2.50	\$2.50	\$2.50	\$2.50	\$3.00

*Jobs/Housing Impact Fee for affordable housing = \$5.44 per square foot for July 1, 2016 – June 30, 2017.

Transportation Impact Fees

Table 3: Transportation Impact Fees - Residential

Transportation Impact Fees - Residential (Fee Per Housing Unit)						
The Date is Based on When the Applicant Applies for Building Permit						
Housing Use Type	Zone	9/1/16 – 6/30/17 First Fiscal Year	7/1/17 – 6/30/18	7/1/18 – 6/30/19)	7/1/19 – 6/30/20	7/1/20 – 6/30/21
Multi-family	Zone 1	\$750	\$750	\$750	\$750	\$750
	Zone 2	\$750	\$750	\$750	\$750	\$750
	Zone 3	\$710	\$710	\$750	\$750	\$750
Townhome	Zone 1	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
	Zone 2	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
	Zone 3	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Single-family	Zone 1	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
	Zone 2	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
	Zone 3	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000

Table 3a: Transportation Impact Fees - Nonresidential

Transportation Impact Fees - Nonresidential (Fee Per Square Foot)					
The Date is Based on When the Applicant Applies for Building Permit					
Nonresidential Use Type	9/1/16 – 6/30/17	7/1/17 – 6/30/18	7/1/18 – 6/30/19	7/1/19 – 6/30/20	7/1/20 – 6/30/21
Office*	\$0.85	\$0.85	\$1.00	\$1.00	\$2.00
Retail, Freestanding	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75
Retail, Ground Floor	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75
Industrial	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Warehouse*	\$0.35	\$0.35	\$0.35	\$0.35	\$0.35
Hotel/Motel	\$0.65	\$0.65	\$0.65	\$0.65	\$0.65
Institutional	\$1.20	\$1.20	\$2.00	\$2.00	\$3.00

*Jobs/Housing Impact Fee for affordable housing = \$5.44 per square foot for July 1, 2016 – June 30, 2017.

On-Site and Off-Site Affordable Housing Options

As an alternative to payment of the Affordable Housing Impact Fee, a developer has the option in some cases to mitigate their project's impacts by building affordable units on-site or off-site.

There is a need to have not only stand-alone affordable housing buildings, but also buildings with a mixture of income levels. The Affordable Housing Impact Fee ordinance recognized this need and tried to incentivize the creation of on-site affordable housing units in market rate developments. There are benefits to having projects build affordable units on-site, because such units can be built sooner and are mixed in with market-rate units. Additionally, the units can be built in neighborhoods that often have more amenities and better public services that otherwise lack affordable housing opportunities.

Staff originally considered calibrating the on- and off-site options so that they had the same cost impact on the project as the impact fee, and allowing the provision of moderate-income and/or lower-income units in the project. The cost of on-site compliance was represented by the difference between the market-rate rent/sales price and the affordable rent/sales price for the affordable units required in a residential development. From the perspective of the market-rate project subject to the requirements, the "cost" is the reduction in revenues from renting or selling a unit at the affordable rent/price instead of the market-rate rent/price. It was assumed that the development costs for the affordable units would be essentially the same as the costs of developing the market-rate units in the project. The percentages under this cost-neutral approach turned out to be low: two percent for very low-income, three percent for low-income, and five percent for moderate-income. Based on the analysis outcome under a cost-neutral approach, the percentages mentioned below were adopted instead.

An applicant will not be subject to the Affordable Housing Impact Fee if they provide a certain level of affordable housing within the development project. The same affordable unit percentages were chosen as required under the existing State Density Bonuses and Other Incentives provisions in Government Code Sections 65915-65918 and the Density Bonus and Incentive Procedure in Chapter 17.107 of the Oakland Planning Code:

1. Very-Low Income: 5 percent
2. Low Income: 10 percent
3. Moderate Income: 10 percent

These percentages are higher than percentages that were considered based upon a cost-neutral approach—two to three times higher in some cases. The extra costs associated with providing a higher percentage of affordable units can be offset because the developer can take advantage of the State and local Density Bonus and Incentive Programs to bridge the gap between the cost of the Impact Fees and the cost of building on-site. The State and local Density Bonus and Incentives Programs award additional allowable density and certain development incentives to projects with affordable units. The more affordable units provided, the larger the density bonus and the more incentives that are available. Incentives include, but are not limited to: reduction in development standards, required off-street parking, required setbacks, maximum building height, required open space, maximum floor-area ratio, minimum lot area, and minimum courtyards. Other cities use similar measures for on-site development to take advantage of the Density Bonus Program.

The regulations require 10 percent affordable units for both low-income and moderate-income units, however, under the Density Bonus and Incentives Program there are higher density bonuses for providing low-income units as opposed to moderate-income units. So, although moderate-income units are less expensive for the developer to provide compared to low-income units, providing low-income units allows for larger density bonuses. Also, these percentages are the minimums for the Density Bonus and Incentive Program. Projects may opt to provide higher percentages to take advantage of larger bonuses and more incentives.

Summary of Jobs/Housing Impact Fee

On July 30, 2002, the City Council adopted the Jobs/Housing Impact Fee, OMC Chapter 15.68 (Ordinance No. 12442 C.M.S.). These Impact Fees went into effect for development projects

submitting a building permit on or after July 1, 2005. The Impact Fees started at \$4.00 per square foot and have adjusted with inflation, and currently are charged at \$5.44 per square foot.

Development Projects Subject to Jobs/Housing Impact Fee and Exemptions

Development Projects that are Subject to Jobs/Housing Impact Fee:

- New nonresidential Office or Warehouse projects that exceed 25,000 square feet.
- Nonresidential Office or Warehouse projects with additional floor area that exceeds 25,000 square feet.
- Nonresidential projects with a "Change and Intensification of Use" to an office or warehouse that exceeds 25,000 square feet.
- A building that is vacant for a year or more and exceeds 25,000 square feet that obtains a building permit for an office or warehouse activity.
- Development projects subject to the Jobs/Housing Impact Fee only pay for square footage of the building that exceeds 25,000 square feet.

Payment of Jobs/Housing Impact Fee

Development projects subject to the Jobs/Housing Impact Fee only pay for square footage of the building that exceeds 25,000 square feet.

The Jobs/Housing Impact Fee is due in three installments:

- The first installment of 25% of the Impact Fee is due prior to the issuance of a building permit;
- The second installment of 50% is due prior to the issuance of a temporary or permanent certificate of occupancy, whichever comes first; and
- The third installment for the remaining 25% is due 18 months after the temporary certificate of occupancy.

ANALYSIS

Reporting Requirements for Development Impact Fees

In California, State legislation sets certain legal and procedural parameters for the charging of development impact fees ("DIFs"). This legislation was passed as AB1600 by the California Legislature and is now codified as California Government Code Section 66000 through 66008 ("Mitigation Fee Act"). This State law went into effect on January 1, 1989. For the full Impact Fee Annual Report for Affordable Housing, Jobs/Housing, Transportation, and Capital Improvements Impact Fees, Fiscal Year Ended June 30, 2017 see **Attachment B**.

Summary of Impact Fees Collected and Assessed

As expected the first fiscal year amounts of Impact Fees collected/paid are low for a number of reasons including, but not limited to:

1. The Impact Fee program is designed for revenues generated overtime to mitigate impacts from new development and not meant to cover existing shortfalls.

2. The Impact Fees did not start at the beginning of the fiscal year of 2016, which was July 1, 2016, but instead started September 1, 2016, therefore the first year revenues did not include a full fiscal year.
3. A number of projects had vested rights and were not subject to Impact Fees.
4. A number of projects had development agreements that already require some type of community benefits and were not subject to Impact Fees.
5. Impact Fees are not paid in full when a building permit is applied for but later in the building permit process:
 - a. At building permit issuance, 100% of Transportation and Capital Improvements Impact Fees, 50% of Affordable Housing Impact Fees, and 25% of Jobs/Housing Impact Fee are paid. Building permit issuance may occur up to one year after a building permit application. Therefore, a large portion of these fees are not included in the first fiscal year.
 - b. At project completion, the remaining 50% of Affordable Housing Impact Fees and 50% of Jobs/Housing Impact Fee are paid, which for larger projects typically occurs 1 to 3 years after the building permit issuance (and 2 to 4 years after the building permit application). These Impact Fees likely will not be paid until the second, third, or fourth fiscal year.
 - c. For Jobs/Housing Impact Fee the remaining 25% of the Impact Fees are paid at 18 months after project completion.
6. The Impact Fees were phased in to give time for developers to incorporate the cost of the Impact Fees into their projects as well as to incentivize development projects to be built now so the housing built can contribute to the need for housing now. Phasing in new fees was also consistent with continued real growth of rents and improved feasibility of housing development.

Table 4 below lists:

1. The amount of Impact Fees already paid during the first fiscal year of the program.
2. The amount of revenue assessed, but not due yet because the building permit has not been issued yet and/or a certificate of occupancy has not been received yet.
3. And finally, the total amount of Impact Fees assessed for all of the building permits that filed applications during the first fiscal year. So eventually, if all of the projects that have applied for building permits during this past fiscal year are built to completion, these are the total Impact Fees that will be paid.

Table 4: Impact Fees Paid and Assessed for Building Permit Applications Filed 9/1/16 – 6/30/17 (Jobs/Housing 7/1/16 – 6/30/17)

Impact Fee Fund	Impact Fee	Amount Paid	Revenue Assessed but Not Due Yet	Total Impact Fees Assessed
		9/1/16 – 6/30/17 (Jobs/Housing 7/1/16 – 6/30/17)		
Affordable Housing Trust Fund	Affordable Housing Impact Fees (AHIF)	\$477,824	\$7,207,794	\$7,685,618
	Jobs/Housing Impact Fee (JHIF)	\$303,360	\$2,999,774	\$3,303,134
	Total of AHIF & JHIF	\$781,184	\$10,207,568	\$10,988,752
Transportation Impact Fee Trust Fund	Transportation Impact Fee	\$483,269	\$1,418,254	\$1,901,523
Capital Improvements Impact Fee Trust Fund	Capital Improvements Impact Fee	\$141,547	\$1,189,581	\$1,331,128

Planning and Building Projects That Have Applied for On-Site Affordable Housing Option

As an alternative to payment of the Affordable Housing Impact Fee, a developer has the option to mitigate their project's impacts by building affordable units on-site. There are benefits to having projects build affordable units on-site, because such units can be built sooner and would be mixed in with market-rate units. Additionally, the units can be built in neighborhoods that often have more amenities and better public services that otherwise lack affordable housing opportunities.

To date, ten development projects subject to the Impact Fees have applied for planning permits approvals and/or building permits and have chosen the on-site affordable housing option instead of paying the Impact Fees. Given that the Impact Fees are low to start in the first fiscal year, and increasing as they are being phased in, the number of applicants that choose the on-site option may increase in the future as the Impact Fee might be more equal to the cost of building affordable units on-site. The largest number of the projects are being built in Council District 3, with two in Council District 1, one in Council District 2, and one in Council District 6. Currently there are no on-site affordable units proposed in Council Districts 4, 5, and 7. This list does not include projects that are building on-site affordable units that would not have been subject to the Impact Fees and it does not include 100% affordable projects that are proposed or under construction. To date, no projects have proposed to develop off-site affordable units.

Table 5: Planning Projects Opting to Build On-Site Affordable Units

Council District (CD)	# of Projects	Total Units	Affordable Units			
			Very Low	Low	Moderate	Total
CD 1	2	101	7	4	0	11
CD 2	1	630	0	54	0	54
CD 3	6	1,354	77	4	3	84
CD 4	0	0	0	0	0	0
CD 5	0	0	0	0	0	0
CD 6	1	21	0	3	0	3
CD 7	0	0	0	0	0	0
Total	10	2,106	84	65	3	152

FISCAL IMPACT

There is no fiscal impact of this annual report for Impact Fees as it is an informational report. The fiscal benefit of the revenues generated by the impact fees for the fiscal year of July 1, 2016 to June 30, 2017 is \$477,824 for the Affordable Housing Impact Fee, \$303,360 for the Jobs/Housing Impact Fee, \$483,269 for the Transportation Impact Fee, and \$141,547 for the Capital Improvements Impact Fee.

The Mitigation Fee Act requires annual monitoring and reporting, and a five-year update of the Impact Fees, 2% of the Impact Fees paid are being held to pay for these requirements.

PUBLIC OUTREACH / INTEREST

An email notification was sent out on the govdelivery email listserv from the City to those subscribed for updates of the Impact Fees upon posting of this Impact Fee Annual Report.

COORDINATION

Project management, policy guidance, and implementation was coordinated with the City Administrator's Office, Office of the City Attorney, and the Planning and Building Department as well as the Public Works Department, Housing and Community Development Department, and Department of Transportation along with other departments, as appropriate, based on the topic(s) addressed.

SUSTAINABLE OPPORTUNITIES

Economic: The impact fees require private development to fund its fair share of affordable housing, transportation and capital improvements infrastructure in a manner that does not hamper new development. The application of the development impact fee process helps provide certainty about development costs.

Environmental: Impact fees pay for the impacts that a project creates and serves to mitigate the cumulative transportation impacts.

Social Equity: Impact fees on new development provides funding for affordable housing units and transportation and capital improvements infrastructure. These funds will be used to mitigate impacts of new development citywide.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive This Annual Report On The Affordable Housing, Capital Improvements, Transportation, and Jobs/Housing Impact Fees.

For questions regarding this report, please contact Laura Kaminski, Planner III, at (510) 238-6809.

Respectfully submitted,



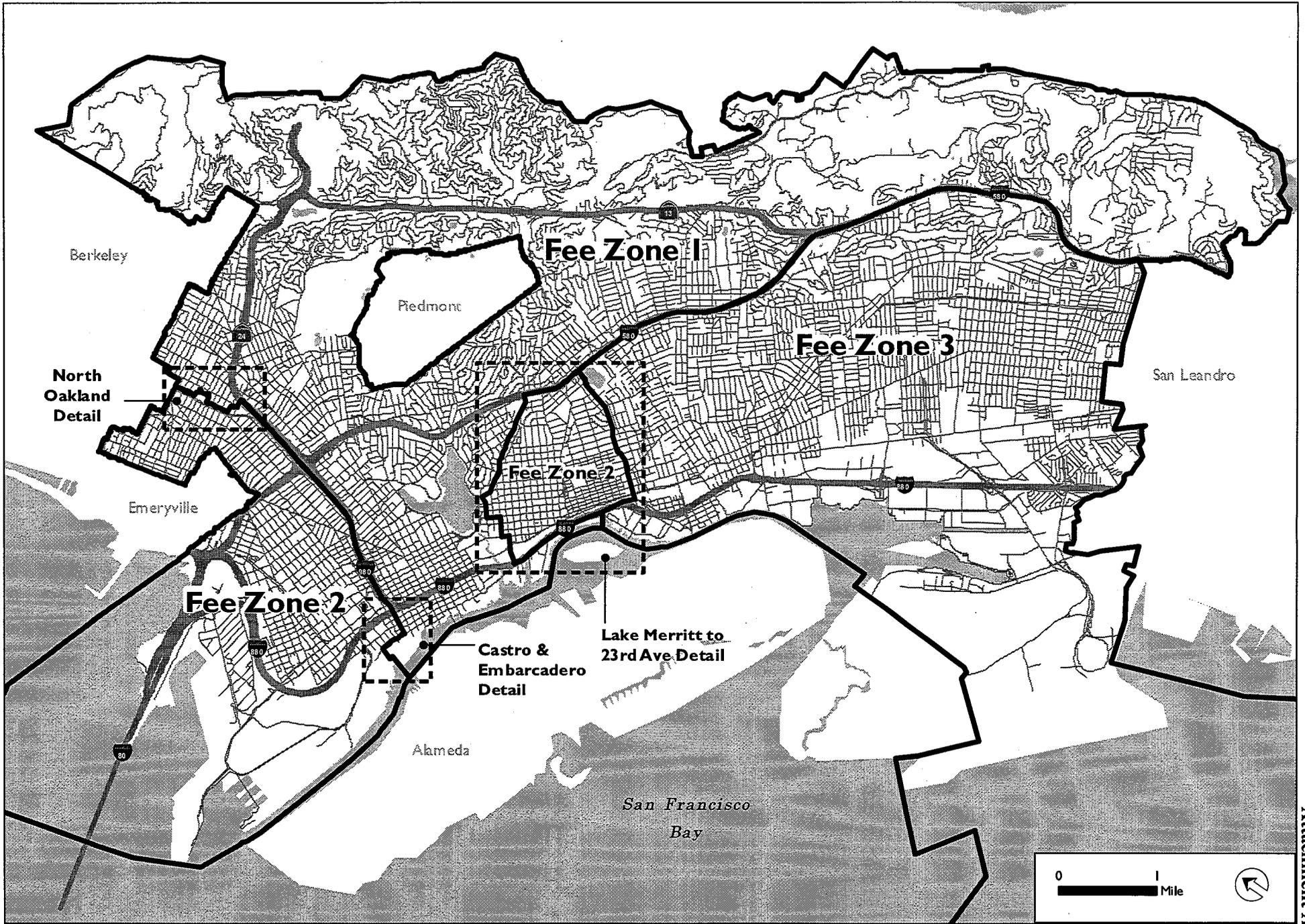
WILLIAM GILCHRIST
Director Planning and Building Department

Reviewed by:
Darin Ranelletti, Deputy Director
Bureau of Planning

Prepared by:
Laura B. Kaminski, Planner III
Strategic Planning Division

Attachments (2):

- A. *Impact Fee Zone Map*
- B. *Impact Fee Annual Report for: Affordable Housing, Jobs/Housing, Transportation, and Capital Improvements Impact Fees, Fiscal Year Ended June 30, 2017*



Attachment A



Impact Fee Zones for Residential Projects

Planning & Building Department
April 20, 2016

CITY OF OAKLAND
IMPACT FEE
ANNUAL REPORT FOR:

**AFFORDABLE HOUSING,
JOBS/HOUSING, TRANSPORTATION,
& CAPITAL IMPROVEMENTS IMPACT
FEES**

Fiscal Year Ended June 30, 2017

November 20, 2017

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I. REPORTING REQUIREMENTS FOR IMPACT FEES

In California, State legislation sets certain legal and procedural parameters for the charging of impact fees. This legislation was passed as AB1600 by the California Legislature and is now codified as California Government Code Sections (GC §) 66000 through 66008 (“Mitigation Fee Act”). This State law went into effect on January 1, 1989.

GC § 66006(b) states the following requirements as pertains to impact fees for the prior fiscal year:

- a. A brief description of the type of fee in the account or fund.
- b. The amount of the fee.
- c. The beginning and ending balance of the account or fund.
- d. The amount of the Impact Fee revenue collected and the interest earned on the fund balance.
- e. An identification of the capital projects (Affordable Housing, Transportation Infrastructure, or Capital Facilities) on which Impact Fees were expended and the amount of expenditures on each capital project, including the total percentage of the cost of the capital project that was funded with Impact Fees.
- f. If a specific capital project is identified in the City’s Capital Improvement Program for funding by Impact Fees, and if sufficient Impact Fees have been collected to complete funding of the capital project, then the approximate date by which the construction of that capital project will commence. If a date is not identified, then Impact Fees may have to be refunded pursuant to Government Code Sections 6601(e) and (f).

II. DESCRIPTION OF DEVELOPMENT IMPACT FEES

A. Affordable Housing Impact Fees

Oakland Municipal Code (OMC) Chapter 15.72 (Ordinance No. 13365 C.M.S.) establishes affordable housing impact fees in the City of Oakland to assure that market-rate residential development projects pay their fair share to compensate for the increased demand for affordable housing generated by such development projects within the City of Oakland. Any development project, unless exempt from this chapter, resulting in additional housing units in new or existing buildings must pay to the City the Affordable Housing Impact Fees, or the applicant may elect to construct on-site or off-site affordable housing units as permitted under OMC Sections 15.72.100 and 15.72.110. These Impact Fees are further broken down into three Impact Fee Zones for which fees vary.

The Affordable Housing Trust Fund established under OMC Chapter 15.62 receives all Affordable Housing Impact Fees collected and all interest and investment earnings thereon, shall be used to increase, improve, and preserve the supply of affordable housing in the City, with priority given to housing for very low income households.

B. Jobs/Housing Impact Fee

OMC Chapter 15.68 (Ordinance No. 12442 C.M.S.) establishes a Jobs/Housing Impact Fee in the City of Oakland to assure that certain commercial development projects compensate and mitigate for the increased

demand for affordable housing generated by such development projects within the City of Oakland. Any new office or warehouse/distribution development project in a new or existing building over 25,000 square feet must pay to the City the Jobs/Housing Impact Fee, or may elect to construct affordable housing as per OMC Section 15.68.080.

The Affordable Housing Trust Fund established under OMC Chapter 15.62 receives all Jobs/Housing Impact Fees collected and all interest and investment earnings thereon, shall be used to increase, improve, and preserve the supply of affordable housing in the City, with priority given to housing for very low income households.

C. Transportation Impact Fees

OMC Chapter 15.74 (Ordinance No. 12442 C.M.S.) establishes citywide transportation impact fees in the City of Oakland to assure that development projects pay their fair share to compensate for the increased demand for transportation infrastructure generated by such development projects within the City of Oakland. Any development project, unless exempt from the chapter, resulting in additional square footage for a non-residential project or additional housing units in a residential project in new or existing buildings must pay to the City the Transportation Impact Fees, or comply with the Developer Constructed Facilities in OMC Section 15.74.120. For residential development projects, these Impact Fees are further broken down into three Impact Fee Zones for which fees vary.

A Transportation Impact Fee Fund receives all Transportation Impact Fees collected and all interest and investment earnings thereon, shall be used to pay for improvements within the public right-of-way for pedestrians, bicyclists and/or motor vehicles. Fee revenues may be used to fund a capital project or portion of a capital project that meets the requirements of OMC Section 15.74.100.

D. Capital Improvement Impact Fees

OMC Chapter 15.74 (Ordinance No. 12442 C.M.S.) establishes citywide capital improvement impact fees in the City of Oakland to assure that development projects pay their fair share to compensate for the increased demand for capital improvements infrastructure generated by such development projects within the City of Oakland. Any development project, unless exempt from the chapter, resulting in additional square footage for a non-residential project or additional housing units in a residential project in new or existing buildings, must pay to the City the Capital Improvement Impact Fees, or comply with the Developer Constructed Facilities in OMC Section 15.74.120. For residential development projects, these Impact Fees are further broken down into three Impact Fee Zones for which fees vary.

A Capital Improvements Impact Fee Fund receives all the Capital Improvements Impact Fees collected and all interest and investment earnings thereon, shall be used to pay for projects that are required for fire, police, library, parks and recreation, or storm drain services. Fee revenues may be used to fund a public facility or portion of a public facility that meets the requirements of OMC Section 15.74.110.

III. AMOUNT OF IMPACT FEE, FUND BALANCE, AND PROJECT DESCRIPTIONS

A. Summary of Impact Fees Collected and Assessed

As expected the first fiscal year amounts of Impact Fees collected/paid are low for a number of reasons including, but not limited to:

1. The Impact Fee program is designed for revenues generated overtime to mitigate impacts from new development and not meant to cover existing shortfalls.
2. The Impact Fees did not start at the beginning of the fiscal year of 2016, which was July 1, 2016, but instead started September 1, 2016, therefore the first year revenues did not include a full fiscal year.
3. A number of projects had vested rights and were not subject to Impact Fees.
4. A number of projects had development agreements that already require some type of community benefits and were not subject to Impact Fees.
5. Impact Fees are not paid in full when a building permit is applied for but later in the building permit process:
 - a. At building permit issuance, 100% of Transportation and Capital Improvements Impact Fees, 50% of Affordable Housing Impact Fees, and 25% of Jobs/Housing Impact Fee are paid. Building permit issuance may occur up to one year after a building permit application. Therefore, a large portion of these fees are not included in the first fiscal year.
 - b. At project completion, the remaining 50% of Affordable Housing Impact Fees and 50% of Jobs/Housing Impact Fee are paid, which for larger projects typically occurs 1 to 3 years after the building permit issuance (and 2 to 4 years after the building permit application). These Impact Fees likely will not be paid until the second, third, or fourth fiscal year.
 - c. For Jobs/Housing Impact Fee the remaining 25% of the Impact Fees are paid at 18 months after project completion.
6. The Impact Fees were phased in to give time for developers to incorporate the cost of the Impact Fees into their projects as well as to incentivize development projects to be built now so the housing built can contribute to the need for housing now. Phasing in new fees was also consistent with continued real growth of rents and improved feasibility of housing development.

Table 1 below lists:

1. The amount of Impact Fees already collected/paid during the first fiscal year of the program.
2. The amount of revenue assessed, but not due yet because the building permit has not been issued yet and/or a certificate of occupancy has not been received yet.
3. And finally, the total amount of Impact Fees assessed for all of the building permits that filed applications during the first fiscal year. So eventually, if all of the projects that have applied for building permits during this past fiscal year are built to completion, these are the total Impact Fees that will be paid.

Table 1: Impact Fees Collected/Paid and Assessed for Building Permit Applications Filed 7/1/16 – 6/30/17				
Impact Fee Fund	Impact Fee	Amount Collected/Paid	Revenue Assessed but Not Due Yet	Total Impact Fees Assessed
		7/1/16 – 6/30/17		
Affordable Housing Trust Fund	Affordable Housing Impact Fees (AHIF)	\$477,824	\$7,207,794	\$7,685,618
	Jobs/Housing Impact Fee (JHIF)	\$303,360	\$2,999,774	\$3,303,134
	Total of AHIF & JHIF	\$781,184	\$10,207,568	\$10,988,752
Transportation Impact Fee Trust Fund	Transportation Impact Fee	\$483,269	\$1,418,254	\$1,901,523
Capital Improvements Impact Fee Trust Fund	Capital Improvements Impact Fee	\$141,547	\$1,189,581	\$1,331,128

B. Affordable Housing Impact Fees

1. The Amount of Affordable Housing Impact Fee

Housing Use Type	Zone	Fiscal Year 7/1/16 – 6/30/17
Multi-family	Zone 1	\$5,500
	Zone 2	\$4,550
	Zone 3	\$0
Townhome	Zone 1	\$6,500
	Zone 2	\$2,600
	Zone 3	\$0
Single-family	Zone 1	\$6,000
	Zone 2	\$3,750
	Zone 3	\$0

2. Fund Balance Summary

Document Establishing Fee	Project	Starting Balance	Fees Collected	Interest Earned*	Transfer Out for Admin Costs**	Expenditures	Ending Balance as of June 30, 2017	Sufficient Funds to Complete Project?	% of CIP Funded by Fee
Oakland Municipal Code Chapters 15.72 & 15.62	N/A	\$0.00	\$477,824	\$155	(\$9,556)	(\$0.00)	\$468,423	N/A	N/A

* Estimated interest. Final interest amounts will be posted by February 2018 after Fiscal Year 2016-2017 audited actuals are provided.
 **Transfers out: 2% for Administrative Costs.

3. Affordable Housing Impact Fees Project Descriptions

Because the July 1, 2016 to June 30, 2017 fiscal year is the first fiscal year that Affordable Housing Impact Fees have been collected, no projects were built during that same fiscal year utilizing these funds because there was a starting balance of \$0.00.

Awarding Future Projects

Housing and Community Development released two Notices of Funding Availabilities (NOFA) on July 31, 2017, and received 16 applications for New Construction of Affordable Housing and 8 applications for the Rehabilitation and Preservation of Affordable Housing. In December 2017, Housing and Community Development staff will seek Council approval of a project pipeline in order to award funds, including available Affordable Housing Impact Fees funds, to the eligible projects.

C. Jobs/Housing Impact Fee

1. The Amount of Jobs/Housing Impact Fee

Nonresidential Use Type	Fiscal Year 7/1/16 – 6/30/17
Office	\$5.44
Warehouse	\$5.44

2. Fund Balance Summary

Document Establishing Fee	Project	Starting Balance	Fees Collected	Interest Earned*	Transfer Out for Admin Costs**	Expenditures	Ending Balance as of June 30, 2017	Sufficient Funds to Complete Project?	% of CIP Funded by Fee
Oakland Municipal Code Chapters 15.68 & 15.62	N/A	\$528,861	\$303,360	\$99	(\$6,067)	(\$0.00)	\$826,253	N/A	N/A

* Estimated interest. Final interest amounts will be posted by February 2018 after Fiscal Year 2016-2017 audited actuals are provided.
**Transfers out: 2% for Administrative Costs.

3. Jobs/Housing Impact Fee Project Descriptions

There were no projects paid money from the Jobs/Housing Impact Fees for the July 1, 2016 to June 30, 2017 fiscal year.

Awarding Future Projects

Housing and Community Development released two Notices of Funding Availabilities (NOFA) on July 31, 2017 and received 16 applications for New Construction of Affordable Housing and 8 applications for the Rehabilitation and Preservation of Affordable Housing. In December 2017, Housing and Community Development staff will seek Council approval of a project pipeline in order to award funds, including available Jobs/Housing Impact Fee, to the eligible projects.

D. Transportation Impact Fees

1. The Amount of Transportation Impact Fees

Housing Use Type	Zone	Fiscal Year 9/1/16 – 6/30/17
Multi-family	Zone 1	\$750
	Zone 2	\$750
	Zone 3	\$710
Townhome	Zone 1	\$1,000
	Zone 2	\$1,000
	Zone 3	\$1,000
Single-family	Zone 1	\$1,000
	Zone 2	\$1,000
	Zone 3	\$1,000

Nonresidential Use Type	Fiscal Year 7/1/16 – 6/30/17
Office	\$0.85
Retail, Freestanding	\$0.75
Retail, Ground Floor	\$0.75
Industrial	\$0.55
Warehouse	\$0.35
Hotel/Motel	\$0.65
Institutional	\$1.20

2. Fund Balance Summary

Document Establishing Fee	Project	Starting Balance	Fees Collected	Interest Earned*	Transfer Out for Admin Costs**	Expenditures	Ending Balance as of June 30, 2017	Sufficient Funds to Complete Project?	% of CIP Funded by Fee
Oakland Municipal Code Chapter 15.74	N/A	\$0.00	\$483,269	\$158	(\$9,665)	(\$0.00)	\$473,762	N/A	N/A

* Estimated interest. Final interest amounts will be posted by February 2018 after Fiscal Year 2016-2017 audited actuals are provided.
 **Transfers out: 2% for Administrative Costs.

3. Transportation Impact Fees Project Descriptions

Because the July 1, 2016 to June 30, 2017 fiscal year is the first fiscal year that Transportation Impact Fees have been collected, no projects were built during that same fiscal year utilizing these funds because there was a starting balance of \$0.00.

Future Projects

Funds deposited into the Transportation Impact Fee Fund, and all interest and investment earnings thereon, will be used to pay for improvements within the public right-of-way for pedestrians, bicyclists and/or motor vehicles. There are a number of projects that are CEQA cumulative mitigation measures that will be funded by the Transportation Impact Fees. Fee revenues may be used to fund a capital project or portion of a capital project that meets all of the following criteria:

- a. The project is a capital project contained within the City’s Capital Improvement Program;
- b. The project is part of the City’s citywide transportation infrastructure or provides connectivity between neighborhoods and activity centers within the City, or to neighboring communities or regional transportation facilities, and is not primarily for access to one specific neighborhood or development site; and
- c. The project improves or expands the City’s citywide transportation infrastructure to address and manage travel demand from new development.

Projects may include not only managing vehicle impacts, but also shifting demand to transit, biking, and walking. Funds may not be used for rehabilitation, maintenance or operating costs.

E. Capital Improvements Impact Fees

1. The Amount of Capital Improvements Impact Fees

Table 8. Capital Improvement Impact Fees - Residential (Fee Per Housing Unit)
The Date is Based on When the Applicant Applies for Building Permit

Housing Use Type	Zone	Fiscal Year 7/1/16 – 6/30/17
Multi-family	Zone 1	\$750
	Zone 2	\$250
	Zone 3	\$0
Townhome	Zone 1	\$1,000
	Zone 2	\$1,000
	Zone 3	\$0
Single-family	Zone 1	\$1,500
	Zone 2	\$1,000
	Zone 3	\$0

Table 8a. Capital Improvements Impact Fees - Nonresidential (Fee Per Square Foot)
The Date is Based on When the Applicant Applies for Building Permit

Nonresidential Use Type	Fiscal Year 7/1/16 – 6/30/17
Office	\$0.00
Retail, Freestanding	\$0.00
Retail, Ground Floor	\$0.00
Industrial	\$0.40
Warehouse	\$0.65
Hotel/Motel	\$0.10
Institutional	\$2.50

2. Fund Balance Summary

Table 9. Capital Improvements Impact Fees, Fiscal Year 7/1/16 – 6/30/17

Document Establishing Fee	Project	Starting Balance	Fees Collected	Interest Earned*	Transfer Out for Admin Costs**	Expenditures	Ending Balance as of June 30, 2017	Sufficient Funds to Complete Project?	% of CIP Funded by Fee
Oakland Municipal Code Chapter 15.74	N/A	\$0.00	\$141,547	\$46	(\$2,831)	(\$0.00)	\$138,762	N/A	N/A

* Estimated interest. Final interest amounts will be posted by February 2018 after Fiscal Year 2016-2017 audited actuals are provided.

**Transfers out: 2% for Administrative Costs.

3. Capital Improvements Impact Fees Project Descriptions

Because the July 1, 2016 to June 30, 2017 fiscal year is the first fiscal year that Capital Improvements Impact Fees have been collected, no projects were built during that same fiscal year utilizing these funds because there was a starting balance of \$0.00.

Future Projects

Funds deposited into the Capital Improvements Impact Fee Fund, and all interest and investment earnings thereon, shall be used to pay for future projects that are required for fire, police, library, parks and recreation, or storm drain services. Fee revenues may be used to fund a public facility or portion of a public facility that meets all of the following criteria:

- a. The project is a capital project contained within the City’s Capital Improvement Program;
- b. If the project supports fire, police, library, or parks and recreation services, the project must improve or expand the City’s public facilities to accommodate service demand from new development; funds may not be used for rehabilitation, maintenance or operating costs; and
- c. If the project supports storm drain services the project must improve, expand, or rehabilitate the City’s storm drain facilities to accommodate service demand from new development.